

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3484 OF 2022

Hamid Abdul Rajjak Sayyed

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Vashisth Kumar Arora along with Mr. Vipul Yadav, Mr. Sanjay Dutta, Mr. Gupta and Mr. Vishnu Bhatt, Advocates for the Applicant.
Mr. Y. Y. Dabke, APP for Respondent-State.
Mr. Wagh, PI, EOW Mumbai, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.660 of 2021 registered with Dindoshi Police Station, Mumbai, for offences punishable under Sections 302, 307, 397, 326, 143, 145, 147, 148, 149, 504, 506, 506(II) and 34 of Indian Penal Code, 1860 and Sections 4 and 25 of Indian Arms Act and Sections 37(1)(A) and 135 of Mumbai Police Act.

2. It is prosecution's case that applicant and co-accused

assaulted the complainant and his friend with sickle, chopper and wooden stick. In the said assault, the friend of complainant died.

3. It is contention of learned counsel for applicant that name of the applicant was not mentioned in the FIR, name of applicant is added in the supplementary statement of the complainant. The role attributed to the applicant is that he assaulted on complainant's waist with beer bottle. Learned counsel further submitted that complainant has not identified the applicant in test identification parade. Applicant is behind bar for more than two years, investigation is completed and charge-sheet has been filed. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant was a part of unlawful assembly. Applicant and co-accused assaulted the complainant and his friend. In the said assault, complainant's friend died. The allegations against applicant are that he assaulted the complainant with beer bottle on his waist. Learned APP further submitted that it has come in the statement of witness that applicant had assaulted deceased with legs. There is prima facie case against the applicant. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

In the FIR, name of applicant was not mentioned. In the supplementary statement, complainant had stated that applicant had assaulted him with beer bottle on his waist. Witness – Mohsin Khan has stated that he saw applicant assaulting deceased with his legs. In test identification parade, complaint and witness – Mohsin Khan have not identified the applicant. Complainant has not stated that applicant had assaulted the deceased. Applicant is behind bar for more than two years. Investigation is completed and charge-sheet has been filed.

6. Considering the above facts, I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No.660 of 2021 registered with Dindoshi Police Station, Mumbai,, on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The application is allowed in the aforesaid terms and is accordingly disposed off.

8. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)